

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

Return Date: 12/20/07 @10:00 a.m.  
11-9151997

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In Re:

Chapter 11

DELPHI CORPORATION,

Case No. 05-44481-rdd  
Judge Robert D. Drain  
(Jointly Administered)

Debtor.  
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**NOTICE OF MOTION TO VACATE STAY TO PERMIT  
COMMENCEMENT OF ACTION TO RE-TRANSFER  
PROPOSED PLAINTIFF'S BACK TO HOURLY EMPLOYEE STATUS**

**S I R S :**

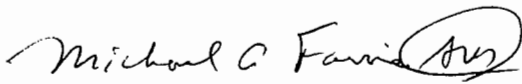
PLEASE TAKE NOTICE, a Motion will be made by **Jimmy Mueller, David Gargis and Keith Livingston**, by their attorneys, Thaler & Gertler, LLP, before the Honorable Robert D. Drain, United States Bankruptcy Judge, at the **United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408, Courtroom 610** on the **25<sup>th</sup> day of January , 2008 at 10:00 o'clock** in the forenoon of said day, or as soon thereafter as counsel may be heard,, for an Order: (1) vacating the automatic stay for cause, under 11 U.S.C. §362(d)(1), Bankruptcy Rule 4001(d)(1) and SDNY LBR 4001-1 for the purpose of commencing an Action in the Northern District of Alabama entitled **Jimmy Mueller, David Gargis and Keith Livingston v. Delphi Corporation and Delphi Hourly-Rate Employee Pension Plan** under 29 U.S.C. §§1132(a) and 1140 of ERISA; and (2) granting such other relief as to this Court is just and proper. The Action seeks injunctive relief directing Delphi corporation to re-transfer each of the proposed plaintiffs back to hour employee status.

PLEASE TAKE FURTHER NOTICE, that pursuant to S.D.N.Y LBR 9006-1(b) objections to this Motion, if any, shall be made in writing, shall state with particularity the grounds for the objection and shall be filed with the Court and served upon the undersigned so as to ensure actual receipt no later than three (3) days prior to the return date of his Motion. The objection shall be filed with the Clerk of the Bankruptcy Court in Manhattan together with proof of service and a copy designated for chambers. Objections shall be filed with the Bankruptcy Court electronically in accordance with General Orders M -182 and M-242 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov)) by registered users of the Bankruptcy Court's case filing system and, by all other Parties in Interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers) and served in accordance with General Orders M-182 and M-242.

PLEASE TAKE FURTHER NOTICE that the Motion has been electronically filed with the Clerk of the Bankruptcy Court, and as such, may be examined and inspected by interested parties on the Court's website (<http://www.nysb.uscourts.gov>) or by contacting the undersigned.

**Dated: East Meadow, New York  
December 31, 2007**

**THALER & GERTLER, LLP  
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(516) 228-3553**

By:   
Michael A. Farina (MAF-1369)